



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: October 29, 2014 REPORT NO: 14-063

ATTENTION: Budget and Government Efficiency Committee

SUBJECT: Proposed Revisions to the Municipal Code Regarding the Definition of Cooperative Procurement Contracts and Contracts Not Required to be Competitively Bid

REFERENCE: San Diego Municipal Code Chapter 2, Article 2, Divisions 30 and 32

REQUESTED ACTIONS:

Approve the amendments of San Diego Municipal Code Chapter 2, Article 2, Divisions 30 and 32 as proposed.

STAFF RECOMMENDATIONS:

Approve the Requested Actions.

BACKGROUND:

The Purchasing and Contracting Department (P&C) is responsible for administering the City's procurement and materials management functions to ensure the availability of goods and services to meet the City's operational needs. P&C ensures that City departments receive the goods and services as expeditiously and economically as possible. Over the last year, P&C leadership has continued to identify improvement measures and developed tangible steps to reduce procurement cycle times, increase efficiency, and maximize savings for the City. This includes the implementation of an electronic vendor registration and E-procurement system, the implementation of delegated authority to City departments for small dollar purchases, the launch of a citywide procurement forecasting process, and the completion of an extensive review of the City's 'procure-to-pay' process in the OneSD (SAP) system. P&C staff have also identified government procurement industry best practices that could be adopted in the City of San Diego to increase the efficiency and effectiveness of our purchasing process. P&C has identified the use of Cooperative Procurement as one such area of improvement.

A Cooperative Procurement contract is a contract that results from the joint and cooperative purchase of goods or services by the City and one or more agencies, or between a contractor and one or agencies.

The use of Cooperative Procurement is a “standard” best practice of cities, state and public agencies. Cooperative Procurement is a method to efficiently utilize the resources of municipalities, local governments, states, school boards and public agencies. Multiple entities are able to purchase via a cooperative arrangement commodities or services that are high volume, high dollar, and high usage resulting in lower unit prices due to higher volume purchases, and lower administrative costs. By using cooperative agreements the public agencies, such as the City save both time and money by not spending significant resources to solicit and evaluate a new proposal. There are numerous commodities and services that may be purchased through cooperative agreements, such as gasoline, office supplies, uniforms, automotive parts, and janitorial services.

Similarly, a ‘Piggy Back’ is a form of Cooperative Procurement in which the pricing and terms of a contract entered into by an public agency or municipality are extended to another agency. Typically the public agency or municipality will advertise and conduct a competitive process to award a contract that includes language allowing other agencies and municipalities to utilize the contract. This saves both time and money by not duplicating the same efforts for the same commodity for two different agencies.

The following sections of this report discuss the proposed Municipal Code changes and staff recommendations for Council consideration. If approved, the recommended Municipal Code amendments would expand the use of Cooperative Procurement Contracts and help increase efficiency, maximize resources and help reduce procurement cycle times. In drafting these proposed amendments, P&C researched government procurement best practices, specifically through the National Institute of Government Procurement (NIGP) and the National Association of State Procurement Officials (NASPO). In 2010, NASPO released an issue brief on Cooperative Procurements<sup>1</sup> that provided an overview on cooperative procurement contracts, best practices and the value of utilizing such contracts. According to NASPO, all States in the United States, except one, have the authority to cooperatively purchase. In addition, 40 of the states allow local agencies, including municipalities, within their respective states to utilize cooperative agreements.

According to the recent NIGP annual Public Procurement Benchmark Survey Report the use of cooperative purchasing was identified as an area that government agencies need to expand as they look for ways to maximize on resources and cost savings for tax payers. The report benchmarked 357 public agencies in the United States, including 19 in California.

### Current Process

The following steps below summarize the current process of securing a cooperative procurement:

- P&C reviews ITB/RFP<sup>2</sup> forecasting requests from the various City departments. Including the urgent and high priority requests.
- P&C identifies all commodities that may be good candidates for cooperative procurement contracts;
- P&C provides cooperative procurement contracts to the client department to review to see if they fit their needs;

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<sup>1</sup> Strength in Numbers: An Introduction to Cooperative Procurements (NASPO)

<sup>2</sup> ITB – Invitation to Bid; RFP – Request for Proposal

- Working with the respective department, P&C conducts an evaluation and verifies that an identified cooperative agreement meets all the City of San Diego requirements. P&C also confirms that the cooperative agreement or ‘piggy back’ was awarded after completion of a comprehensive, fair, and objective bidding and evaluation process.
- P&C then drafts a certification memo, upon approval of the client department, for the cooperative procurement contract chosen;
- The certification must clearly identify the manner in which the contract is in the City’s economic advantage, is in the best interests of the City, and substantially complies with the City’s competitive bidding requirements.
- Finally, the completed and signed certification memo is then provided to the client department’s City Attorney for review of all associated documents.
- The City Attorney reviews the certification memo for legal sufficiency and assists the departments in preparing, approving, and signing the City’s contract with the Contractor.

Working with the City Attorney, P&C determined that modifications were necessary to the current SDMC language to provide additional clarity and eliminate confusion regarding the City’s ability to utilize cooperative procurement contract. It became apparent that the current SDMC language has in the past prevented the City from expanding the use of cooperative agreements and taking full advantage of the benefits and cost savings that they provide. A critical step in this initiative is redefining what a cooperative agreement is for the City of San Diego, educating City staff and departments on their tremendous benefits and clarification on how, as an agency, the City moves forward with implementation of this best practice.

#### *Expanding the Use of Cooperative Procurement*

In fiscal year 2015, approximately 254 requests for ITBs and RFPs have been received by P&C from the various City departments. P&C would like the City of San Diego to have the ability to utilize valid contracts with various agencies such as the County of San Diego and other municipalities that have been advertised, evaluated and awarded through a comprehensive competitive bidding process. As mentioned, expanding the use of cooperative agreements would allow the City to save both time and money by not spending significant resources to solicit and evaluate new proposals and also take advantage of the cost savings from volume discounts. Some of the benefits provided by the use of Cooperative Procurement include:

- Economies of scale through volume purchases
- Higher quality goods and services as a result of specialized specification writers
- Efficient and effective use of limited resources
- Administrative costs and efforts associated with RFP/ITB development are shared across different agencies

A great example of the benefits from the use of cooperative procurement contracts to the City was the recent acquisition of City of San Diego’s Single Space Smart Parking Meters. The City of San Diego embarked on a comprehensive and lengthy RFP process, however, when the contract was rebid, P&C worked with the user department to identify a viable piggy back opportunity with another municipality. Working with the respective department, P&C conducted an evaluation and verified that the cooperative procurement contract met all the City of San Diego requirements. P&C also confirmed that the cooperative agreement was awarded after a comprehensive, fair, and objective bidding and evaluation process. The decision to utilize a

cooperative procurement contract for the City's Smart Parking Meters helped save time by not having to undergo a lengthy RFP process. In addition, P&C determined that the pricing offered by the cooperative procurement contract was over six (6%) percent lower than the pricing initially offered to the City from its own RFP process. As a result, the City realized a net savings of up to \$150,000 for this procurement.

The following table compares the time and cost savings achieved by the City through the use of a Cooperative Procurement for the acquisition of the City's Smart Parking Meters in FY2014.

*(Table A)*

<i>Single-Space Smart Parking Meters RFP</i>			
	<b>Regular RFP Process</b>	<b>Use of Cooperative Procurement</b>	<b>Savings to the City thru use of Cooperative Procurement</b>
<b>How much time did it take to process the RFP?</b>	Over 9 months	3 weeks	<i>Time saving of over 8 months</i>
<b>What was the price offered by selected vendor? (per unit)</b>	\$465	\$435	<i>\$150,000 (i.e. saving of \$30 per unit, based on a total of 5,000 units)</i>

Proposed Recommendations

Staff recommends adopting the proposed recommendations to allow the City of San Diego to expand the use of cooperative procurement contracts.

PROPOSED MUNICIPAL CODE CHANGES:

This report includes proposed amendments to the Municipal Code Chapter 2, Article 2, Divisions 30 and 32:

**§22.3003 Definitions**

Terms defined in Chapter 2, Article 2, Divisions 30, 31, 32, 33, 34, 35, 36, and 38 are indicated by italics. For purposes of these Divisions:

*Agency through Contract for services* [No change in text.]

*Cooperative procurement contract* means (a) a contract to obtain goods or services for at least two agencies resulting from the joint and cooperative purchase of goods or services by the City and one or more agencies, or (b) a contract between a contractor and one or

more agencies, or agencies thereof, that allows other agencies to use the terms, conditions, and pricing of the original contract for goods or contract for services.

*Job order contract through Valued at* [No change in text.]

**§22.3208      Contracts Not Required to be Competitively Awarded**

The Purchasing Agent may award the following contracts ~~may be awarded~~ without advertisement or a competitive process:

(a)      [No change in text.]

~~(b)~~      ~~A cooperative procurement contract in an amount less than \$10,000;~~

~~(e)(b)~~      [No change in text.]

~~(d)(c)~~      ~~A cooperative procurement contract awarded by another agency provided that the Purchasing Agent first certifies in writing that the cooperative procurement contract:~~

(1)      ~~The Purchasing Agent certifies in writing that the cooperative procurement contract i~~s in the best interests of the City; and

(2)      ~~The cooperative procurement i~~s to the City's economic advantage; and

(3)      ~~The agency's bidding process substantially complies with the City's competitive bidding requirements~~ Was competitively awarded using a process that complies with the policies, rules, and regulations developed and implemented by the City Manager.

~~(e)(d)~~      [No change in text.]

~~(f)(e)~~      [No change in text.]

~~(g)~~(f) [No change in text.]

~~(h)~~(g) [No change in text.]

**Background:**

The Municipal Code currently defines a cooperative procurement contract as a contract for obtaining goods or services for at least two agencies. The recommended changes expand the definition by clarifying the definition of Cooperative Procurement Contracts.

**Benefits of these Amendments:**

Additional clarity in the SDMC language will help facilitate the expanded use of cooperative contracting. The process of certification will become more clear and consistent with the use of the Administrative Regulation and provide clear guidance for staff. The definition being clarified assists Purchasing and Contracting in educating staff not familiar with the methodology behind utilization of cooperative procurement contracts. Additionally, a clear definition allows Purchasing and Contracting staff to maximize resources when researching cooperative procurement contracts.

**IMPACTS OF PROPOSED RECOMMENDATIONS TO DEPARTMENTS:**

The proposed recommendations will save departments both time and money by not spending limited resources to solicit and evaluate new proposals and also take advantage of the cost savings provided by volume discounts. In addition, the proposed recommendations will help reduce procurement cycle times and encourage the timely establishment of contracts for City departments. Departments will be able to initiate contracts faster enabling them to perform their critical missions and increase their ability to respond to the needs of their customers and citizens of the City of San Diego.

**FISCAL CONSIDERATIONS:**

There are no fiscal implications to the City should these changes be approved.

**PREVIOUS COUNCIL and/or COMMITTEE ACTION:**

None regarding this report.

**EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):**

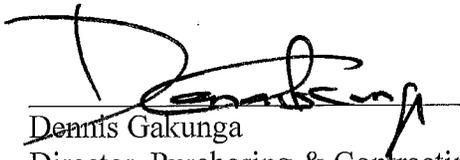
P&C will work with the Equal Opportunity Contracting Program (EOCP), key stakeholders, and the entire vendor community to ensure that the goals of Council Policy 100-10 continue to be achieved.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

None regarding this report.

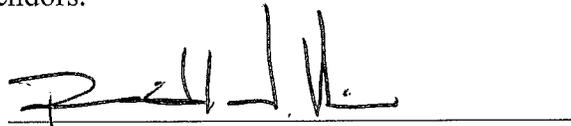
KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key stakeholders for the proposed Municipal Code recommendations are citizens served by City departments, City employees, and all City vendors.



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